REMARKS

Claims 1-15 are pending in the application. Applicant respectfully requests reconsideration of this application.

Rejection of Claims 1-15 under 35 U.S.C. § 103 (a) as being unpatentable over US 2002/0161755) (Moriarty) in view of "IPMP draft-mcgregor-ipmp-OO.txt" (McGregor)

Applicant respectfully traverses the rejection of claims 1-15. Reconsideration is respectfully requested.

The Office Action on page 2, item 2 states "[r]egarding claim 1, 6 and 11, Moriarty teaches a method for...including in the performance measurement packet instructions for a recipient of the performance measurement packet, said instructions including instructions to a recipient to provide specified information 23 (TTL (Time to live), see [0027]) and an instruction to a recipient to insert any additional data (RTT (round trip time), see [0027]) desired by the recipient in the performance measurement packet when forwarding the performance measurement packet." Applicant respectfully disagrees

Applicant respectfully submits that the combination of Moriarty and Mcgregor does not teach or suggest all the claim limitations as set forth in independent claims 1, 6, and 11. For example, independent claims 1, 6, and 11 recite "including in the IPMP packet ...*an instruction to a recipient to insert any additional data desired by the recipient in the IPMP packet when forwarding the IPMP packet*" which are not taught or suggested in the combination of Moriarty and Mcgregor.

Moriarty is directed towards a method for intercepting, by a border device, a performance measurement packet for a specified recipient in order to relieve problems that arise when performance metric packets are interpreted as harmful to a recipient network or server. See Moriarty Abstract

Moriarty in paragraph 0026 states "[f]IG. 1 represents a connection between the sender 1 and a recipient 2. The sender 1 may be, for example, an individual establishing connection to the recipient 2 via a personal computer or a server of a local area network. In addition, the sender 1 may be a device or entity which requests performance measurement information for use with its applications such as a load balancer server. The recipient 3 may similarly be an individual or part

of a network of potential recipients. At a border of the recipient personal computer or network a border device 3 is positioned. The border device 3 provides information regarding the connection between the sender 1 and recipient 2 on behalf of the recipient 2 and at the same time conceals its own identity. *More specifically, the border device 3 provides a response to the sender 1 including performance metrics such as the TTL and RTT regarding the connection between the border device 3 and the sender 1.*" Further, Moriarty in paragraph 0027 states "[f]IG. 3 illustrates a procedure for gathering information about a connection between the sender 1 and recipient 2 illustrated in FIG. 1. At step 10, the sender 1 generates an information query, such as a performance measurement packet 20 as shown in FIG. 2, for example, to request information about connection between the sender 1 and recipient 2. At step 12 the performance measurement packet 20 is sent to the recipient 2. The performance measurement packet 20 includes a destination address or network number 22 that corresponds to the recipient 2. At step 14 the border device 3 receives the performance measurement packet 20. If the destination address or network number 22 of the performance measurement packet 22 matches that of a range of addresses corresponding to a group of at least one recipient for which the border device 3 is to respond, at step 16, the border unit 3 generates a response, or response packet 24 as illustrated in FIG. 2, to the performance measurement packet 20 and includes the information about the connection requested by the sender 1. Such information generally includes the RTT (not shown) and TTL 23 between sender 1 and recipient 2. However, the performance metric packet 20 never reaches the recipient 2, instead the border device 3 responds with information regarding the path to the border device 3. The border device 3 also includes the original destination address or network number 22 of the recipient as the source address of the response packet 24. At step 18 the response is returned to the sender 1 and the information is used to determine the best path between recipient and sender or otherwise utilized by the application requiring the metric information."

Therefore in view of the above citations, Moriarty merely describes a method, wherein a sender 1 requests performance measurement information from a recipient 2, wherein a border device is positioned between the sender and the recipient. The Border device on receiving the request for, performance measurement information, responds with the performance metrics for the path between the sender 1 and the border device 3. The border device 3 includes performance metrics such as TTL and RTT within the response for the performance metrics reply. However,

Moriarty does not describe or suggest that the performance measurement packet comprises instruction, to the recipient 2, to insert any additional data desired by the recipient 2 into the response. Moreover, Moriarty's Performance measurement packet, as illustrated by fig. 2, also fails to describe or suggest any such instruction to the recipient. Thus, Moriarty does not describe or suggest (Emphasis added) "including in the IPMP packet…*an instruction to a recipient to insert any additional data desired by the recipient in the IPMP packet when forwarding the IPMP packet.*"

Since the combination of Moriarty and Mcgregor fails to disclose Applicant's claimed invention as claimed in independent claims 1, 6, and 11, Applicant respectfully requests withdrawal of the rejection of claims 1, 6, and 11 under 35 USC 103(b). Applicant requests that claims 1, 6, and 11 now be passed to allowance.

Dependent claims 2-5, 7-10, and 12-15 depend from, and include all the limitations of independent claims 1, 6, and 11. Therefore, Applicant respectfully requests the reconsideration of dependent claims 2-5, 7-10, and 12-15 and requests withdrawal of the rejection.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicant. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney or agent at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Dated: June 22, 2009   Respectfully submitted,

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